

**STATE OF MINNESOTA  
IN SUPREME COURT**

**C9-85-1506**

**ORDER**

**In Re Judicial Transfer and Vacancies,  
Third Judicial District**

**Continuing Judicial Positions in  
the Third District  
Adopting Plan Providing  
for Termination of Judicial Officer Position**

WHEREAS, pursuant to the provisions of Minnesota Statutes 2.722, subdivision 4 (1988) the Supreme Court is authorized to continue, abolish, or transfer judicial positions which are vacated upon the death, resignation, retirement or removal from office of incumbent judges after consultation with judges and attorneys in the affected judicial district, and,

WHEREAS, the retirement of Judges William J. Nierengarten, presently chambered in Mower County and S. A. Sawyer, presently chambered in Winona County, creates two judicial vacancies in the Third Judicial District; and

WHEREAS, pursuant to the provisions of Minnesota Statutes 480.22 the Supreme Court is empowered to designate the location of chambers for judges;

WHEREAS, the Supreme Court has received requests from the Honorable James L. Mork that his chambers be moved from Freeborn County to Austin in Mower County and from the Honorable Margaret Shaw Johnson that her chambers be moved from Houston County to Winona in Winona County ; and

WHEREAS, on April 17, 1989, the Supreme Court, after giving notice and inviting written and oral testimony, held a public hearing to receive relevant supplemental information which might be of assistance to the Court in making a final determination of relative judicial need; and

WHEREAS, the judges of the Third District have agreed, to terminate the present half time judicial officer position in Steele County when vacated by the current incumbent unless workload increases at such time demonstrate its need;

WHEREAS, the Supreme Court has considered the weighted caseload information regarding the relative judicial needs of the Third District, as well as the oral and written testimony submitted to the Court.

**OFFICE OF  
APPELLATE COURTS**

MAY 11 1989

**FILED**

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The vacancy occasioned by the retirement of the Honorable William J. Nierengarten in Mower County shall be filled by Judge James L. Mork thereby creating a vacancy in Freeborn County.
2. The vacancy in Freeborn County shall be transferred to Olmsted County and the same shall be, and hereby is, certified to the Governor to be filled in the manner provided by law.
3. The vacancy created by the retirement of the Honorable S. A. Sawyer in Winona County shall be filled by Judge Margaret Shaw Johnson thereby creating a vacancy in Houston County.
4. The vacancy in Houston County shall be, and hereby is, certified to the Governor to be filled in the manner provided by law.
5. The Steele County Judicial Officer position, upon vacancy by the current incumbent, shall be terminated unless workload increases at such time demonstrate the need for its continuance.

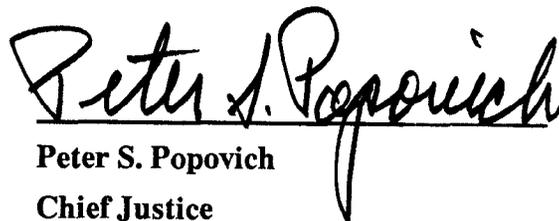
Dated: May 11, 1989

OFFICE OF  
APPELLATE COURTS

MAY 11 1989

FILED

BY THE COURT

  
Peter S. Popovich  
Chief Justice

## MEMORANDUM

On April 17, 1989, after public notice, this court conducted a hearing in the Mower County Courthouse in Austin, Minnesota, to determine whether to continue two vacancies created by the retirement of judges within that district. Justice Glenn Kelley, liaison to the Third Judicial District, presided at that hearing.

As we stated in *In Re Fifth Judicial District Vacancies*, order of April 14, 1987, our overriding concern must be that all citizens of the state have equal and adequate access to judicial resources. We have often expressed our confidence in the use of case filings, case weights and the judicial equivalents derived from the State Judicial Information Systems and the weighted caseload analysis. (See generally, *In Re Fifth District Judicial Vacancy*, id.; *In Re County Court Vacancies*, order of June 20, 1986; *In Re Vacancies in the Second Judicial District*, order of June 9, 1986; *In Re Eighth Judicial District Vacancy*, order of November 20, 1985; *In Re Fifth Judicial District Vacancies*, order of October 2, 1985).

The Third District currently has 22.5 judicial positions. The raw weighted caseload figures show a need for 20.5 judges in 1988. Applying the access adjustment criterion indicates a need for 21 judicial positions as shown below.

**Table 3. Weighted Caseload Judicial Need - Third Judicial District.**

### WCL Judicial Need

#### By Assignment District

County	Actual	1980	1981	1982	1983	1984	1985	1986	1987	1988	Access Adj	1988 Shortage
20 Dodge	1	0.7	0.8	0.8	0.7	0.8	0.7	0.7	0.7	0.7	1	0
23 Fillmore	1	1.0	1.0	1.0	1.1	1.0	1.0	1.1	1.0	1.1	1	0
55 Olmsted	5	5.4	5.7	5.6	5.4	5.9	5.5	5.6	6.0	5.7	6	1
Subtotal	7	7.1	7.5	7.4	7.2	7.7	7.2	7.4	7.7	7.5	8	1
24 Freeborn	3	2.1	2.3	1.9	2.1	2.0	1.9	1.7	1.9	2.0	2	-1
50 Mower	2	1.9	1.9	1.7	1.7	2.0	1.9	2.1	2.0	2.2	2	0
Subtotal	5	4.0	4.2	3.6	3.8	4.0	3.8	3.8	3.9	4.2	4	-1
28 Houston	1	0.9	0.8	0.9	0.8	0.9	0.8	0.9	0.8	0.8	1	0
79 Wabasha	1	1.0	1.1	1.0	0.9	1.1	1.0	0.9	0.7	0.9	1	0
85 Winona	3	2.0	2.4	2.3	2.3	2.5	2.4	2.0	2.3	2.4	2	-1
Subtotal	5	3.9	4.3	4.2	4.0	4.5	4.2	3.8	3.8	4.1	4	-1
66 Rice	3	2.4	2.4	2.3	2.0	2.5	2.5	2.5	2.2	2.5	3	0
74 Steele	1.5	1.1	1.2	1.2	1.1	1.4	1.4	1.5	1.5	1.4	1	-0.5
81 Waseca	1	0.9	0.9	0.9	0.8	0.9	0.9	0.8	0.8	0.7	1	0
Subtotal	5.5	4.4	4.5	4.4	3.9	4.8	4.8	4.8	4.5	4.6	5	-0.5
District Total	22.5	19.2	20.2	19.5	19.0	20.9	20.0	19.6	19.8	20.5	21	-1.5

The weighted caseload analysis indicates inequities in the current distribution of the judicial resources within the Third Judicial District. Freeborn County currently has a surplus of one judgeship and Olmsted demonstrates a need for an additional judgeship. The vacancy created in Freeborn County by re-chambering Judge James Mork to Mower County provides this court with the opportunity to correct this imbalance.

Several of the plans proposed to this court in oral and written submissions provided for the location of one vacant judgeship in Steele County with the contemporaneous termination of the half-time judicial officer position. We decline to adopt that proposal. The assignment district comprised of Rice, Steele and Waseca Counties has a weighted caseload need of 4.6 judges with an actual complement of 5.5. Even upon the retirement of the current half-time judicial officer in Steele County, this assignment district has sufficient judicial resources to cope with its workload. Moreover, the distances between these counties are minimal, facilitating the movement of judges from one county to the other as workload demands dictate.

The assignment district comprised of Houston, Wabasha and Winona Counties has a weighted caseload need of 4.1 judgeships and an actual complement of 5 judges. It is recognized that distances and traveling difficulties are greater among these counties than the other assignment areas within the Third District. Moreover, we note the testimony provided concerning the projected population growth in Olmsted and Winona Counties over the next decade. Therefore, we have determined to continue in Winona County the vacancy created by the retirement of the Honorable S. A. Sawyer.

For the reasons set forth above, we continue the two vacant judgeships in the Third Judicial District with the understanding that the Steele County judicial officer position will be terminated upon its vacancy by the current incumbent unless caseload increases in the judicial district demonstrate its continuing need.